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DEPT FOR AF/S FOR MAYA HARRIS

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SUBJECT: ANTI-CORRUPTION COMMISSION GAINING STEAM

¶1. (U) SUMMARY: On November 10, Ambassador Irving and PolOff met with Anti-Corruption Commissioner Justice H.M Mtegha and Deputy Commissioner Tebogo Fruhwith to discuss the Commission's work and good governance in Swaziland. The Anti-Corruption Commission (ACC) has been in operation with a commissioner since March 2008. The Commissioner stated that the ACC's mandate is broad, and that the ACC possesses the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. The ACC receives a steady inflow of about 20-30 cases per month, and the Deputy Commissioner stated that the quality and number of cases has increased with news of corruption arrests and reports. Examples of cases include breaches of employment laws, procurement issues, bribery, and customs corruption.

¶2. (SBU) Commissioner Mtegha stated that the ACC suffers from lack of training, and is looking for ways to build capacity. He mentioned that anti-corruption cases are held back by the lack of justices in the judiciary and the general backlog of cases facing prosecutors. Although the Commissioner stated that the ACC is independent in its operations, the Commission depends on the Ministry of Justice for its budget. We were impressed with the commission's leadership and its seriousness of purpose, but time will tell whether they are able to combat corruption at the highest levels of government effectively. END SUMMARY.

¶3. (U) On November 10, Ambassador Irving and PolOff met with Anti-Corruption Commissioner Justice H.M Mtegha, a Malawian national, and Deputy Commissioner Tebogo Fruhwith to discuss the Commission's work and good governance in Swaziland. GKOS has had anti-corruption commission legislation on the books as far back as 1993; however previous commissions lacked government support and had not been successful. GKOS created the current Anti-Corruption Commission (ACC) in 2006, although the initial budget only provided for salaries, not operations, and the government did not appoint a commissioner until March 2008.

¶4. (U) The Commissioner stated that the ACC's mandate is broad, and that the ACC possesses the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. According to Deputy Commissioner Fruhwith, the ACC receives a steady inflow of about 20-30 cases per month, and she indicated that the quality of the complainants' information and number of cases has increased with news of corruption arrests and reports. Examples of typical corruption cases before the ACC include breaches of employment laws, procurement issues, bribery, and customs corruption. Commissioner Mtegha stated that the ACC currently has one case in court and another in proceedings, with more expected soon. The courts have not yet convicted a defendant from an ACC case.

¶5. (U) Over the next year the ACC hopes to hire additional staff to increase its work on corruption prevention and public education, as opposed to focusing solely on prosecution of current cases. Commissioner Mtegha stated that the ACC suffers from lack of training, and is looking for ways to build capacity, including making appeals to international community donors. He also mentioned that the anti-corruption cases are held back by the lack of judges

in the judiciary and the general backlog of cases in the court system.

¶6. (U) Commissioner Mtegha commented that Swaziland has neither a written code of ethics for government workers nor does it yet have a whistleblower's protection act, but indicated that Prime Minister Barnabas Sibusiso Dlamini requested the ACC to draft legislation similar to our No Fear Act. According to Commissioner Mtegha, the Prime Minister hoped to have legislation passed early next year. Meanwhile, the Commission is advocating that all government departments and ministries establish internal integrity offices in order to ensure adherence to the government's anti-corruption laws.

¶7. (U) Although Commissioner Mtegha stated that government officials had not attempted to influence the types of cases the ACC took, he acknowledged that the Commission is not fully autonomous. He indicated that the Commission is independent on the operational side, but depends on the Ministry of Justice on the administrative side for its budget and on the civil service system for hiring.

¶8. (SBU) COMMENT: Both Mtegha and Fruhwith impressed us with their intelligence and seriousness of purpose. Swaziland's Prime Minister has made combating corruption a hallmark of his administration, and evidence of his seriousness is the fact that the king appointed a retired judge and respected foreigner to head the Commission, and allotted it an operational budget. Both the Commissioner and his deputy realize that they have limited scope of action thanks to government regulation and dependence on the Ministry of Justice for their budget. They plan to seek remedies for that situation, but time will tell whether they will be permitted to go after malfeasance at the highest levels of the Swazi Government. END COMMENT.

MBABANE 00000308 002 OF 002

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